

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JAMES HARDWICK,)
Petitioner,)
v.) Civ. No. 12-1254-SLR
PERRY PHELPS, Warden,)
and ATTORNEY GENERAL)
OF THE STATE OF DELAWARE,)
Respondents.)

MEMORANDUM ORDER

At Wilmington this ~~26~~ day of August, 2013;

IT IS ORDERED that petitioner James Hardwick's motions for representation by counsel (D.I. 5; D.I. 10) are **DENIED** without prejudice to renew, for the reasons that follow:

1. It is well-settled that a petitioner does not have an automatic constitutional or statutory right to representation in a federal habeas proceeding. See *Coleman v. Thompson*, 501 U.S. 722, 752 (1991); *United States v. Roberson*, 194 F.3d 408, 415 n.5 (3d Cir. 1999). Nevertheless, a court may seek representation by counsel for a petitioner who demonstrates "special circumstances indicating the likelihood of substantial prejudice to [petitioner] resulting . . . from [petitioner's] probable inability without such assistance to present the facts and legal issues to the court in a complex but arguably meritorious case." See *Tabron v. Grace*, 6 F.3d 147, 154 (3d Cir. 1993)(citing *Smith-Bey v. Petsock*, 741 F.2d 22, 26 (3d Cir. 1984); 18 U.S.C. § 3006A (a)(2)(B)(representation by counsel may be provided when a court determines that the

"interests of justice so require").

2. Here, petitioner requests representation by counsel because, among other reasons: he is unskilled in the law; he does not have the ability to present his own case; he cannot afford counsel on his behalf; and the presence of counsel at "the pre-trial" conference may help to expedite the evidentiary hearing or make it unnecessary. None of these reasons, however, persuade the court that the interests of justice require representation of counsel at this time. Additionally, petitioner's other filings in this case demonstrate his ability to sufficiently articulate his arguments, and it does not appear that expert testimony will be necessary or that the ultimate resolution of the petition will depend upon credibility determinations.



UNITED STATES DISTRICT JUDGE